


Randy S. Mullinax,)
)
Plaintiff,)
)
C.A. No.: 2:09-CV-00001-PMD
v.)
)
)
Michael J. Astrue, Commissioner,)
Social Security Administration,)
)
Defendant.)
)
_____)

This matter is before the court upon Defendant’s motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(1). Specifically, Defendant requests that this Court modify its previous Order awarding attorney fees and expenses under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), to provide that such fees and expenses are payable to Plaintiff rather than his attorney. On June 14, 2010—the same day the Court issued its Order awarding attorney’s fees to Plaintiff’s counsel—the Supreme Court unanimously held that an EAJA award is payable to the litigant, not his or her attorney, and is subject to offset to satisfy a preexisting debt that the litigant owed the United States. *Astrue v. Ratliff*, 560 U.S. ___, 2010 WL 2346547, at *3 (June 14, 2010). Therefore, the Court finds its previous Order awarding Plaintiff’s attorney, Paul Townsend McChesney, eight hundred and twenty-one dollars and twenty-two cents (\$821.22) in attorney’s fees and costs pursuant to 28 U.S.C. § 2412 should be modified to reflect the rule in *Ratliff* by awarding those fees to Plaintiff rather than to his attorney.

CONCLUSION

It is therefore **ORDERED**, for the foregoing reasons, that the Court's prior Order (Docket Entry 20) be modified to reflect that Plaintiff, rather than his attorney, is awarded eight hundred and twenty-one dollars and twenty-two cents (\$821.22) in attorney's fees and costs pursuant to 28 U.S.C. § 2412.

AND IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

September 8, 2010
Charleston, SC